Calendar No. 65

82d Congress, 1st Session } SENATE { Report No. 57

GEORGE W. PURDY

January 29, 1951.—Ordered to be printed

Mr. McCarran, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 568]

The Committee on the Judiciary, to which was referred the bill (S. 568) for the relief of George W. Purdy, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide for payment of the sum of $810.50 to George W. Purdy, of Oak Bluffs, Mass., in full settlement of his claims against the United States for adjustment of retirement pay for the period July 1, 1933, to January 2, 1938, as a retired employee of the former Lighthouse Service of the Coast Guard.

STATEMENT

S. 568 is an identical bill to S. 3452 of the Eighty-first Congress, which passed the Senate on September 13, 1950.

It appears that Mr. Purdy was a lighthouse keeper who retired on July 1, 1933, with annual retirement pay of $1,035. As the result of Comptroller General's Decision B–70029, dated October 23, 1947, ruling that the value of quarters furnished lighthouse keepers should be considered in computing the amount of their retirement pay, Mr. Purdy's annual retirement pay was increased to $1,215. By letter dated December 30, 1947, Mr. Purdy made a claim for this difference covering the entire period of his retirement. The claim has been settled except for the amount which accrued during the period from July 1, 1933, to December 30, 1937, which portion of the claim was barred by the General Accounting Office in accordance with the act of October 9, 1940 (54 Stat. 1061 (31 U. S. C. 71a)). This

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statute prohibits the settlement of any claim unless received in the General Accounting Office within 10 full years after its accrual. The purpose of the instant bill is to authorize the payment of the amount of the claim so barred.

The Treasury Department states that limitations upon the period of time within which claims may be filed are imposed for the sound reason that, after long periods of time have elapsed, records pertinent to a case are likely to have been lost or destroyed, and witnesses may no longer be available. It states that waiver of the statute of limitations in this case would appear to be unwarranted and would establish an undesirable precedent for other claimants or groups of claimants to seek similar waivers, thus leading to the eventual undermining of the salutary principle of statutory limitations of the period within which claims against the United States may be filed. The report concludes with the statement that for this reason the Treasury Department recommends against the enactment of the bill.

The Department of Justice states that bills of the kind here involved favor one or more of a group of potential claimants similarly situated, without any just basis for discrimination. Also they strongly tend to destroy the effect of the statutes of limitations and to make it more difficult to avoid piecemeal legislative erosion of such statutes in the future. They further state that this claimant presumably did not know that he had a substantive right until he learned of the Comptroller General's decision. This reason for delay, however, is probably equally applicable to the majority of claims of this character that are sought to be asserted too late. If the statute may properly be waived on the equities of the present case there would appear to be no valid justification for opposing similar relief in the hundreds of cases that were filed as a consequence of the decision in *United States* v. *Townsley* (323 U. S. 557) in which the claimants are in precisely the same situation as the proposed beneficiary of the instant bill, from the standpoint of their prior knowledge of their substantive rights.

The committee does not agree with the position taken by the Treasury Department and the Department of Justice as to the payment of this claim. The statute of limitations is a period of time fixed by statute within which a person may prosecute a claim or bring on action as the case may be. The purpose of the time limit is, of course, to prevent persons from sleeping on their rights and coming in at any time they so desire to claim rights against an individual or the Government. All of this presupposes that the party making the claim has knowledge of his rights but fails to take care of them within the statutory period provided by law. In this case, it is evident that the claimant had no knowledge of any rights accruing to him until the ruling of the Comptroller General of October 23, 1947, and upon receiving such knowledge the claimant filed the claim for money he felt was properly due him. It is interesting to note that the claimant is upheld insofar as the justice of his claim is concerned by the fact that the Government has settled with him for all of that period which was not barred by the statute of limitations. For this reason, the committee is of the opinion that the claim is sound and that the only reason for not paying the claim originally in full was because of the legal bar. As intimated before, the committee has reached the conclusion that the statute of limitations should not apply in an instance of this sort for the reason that until the ruling was made by the Comptroller General on October 23, 1947, the claimant had no claim which he could have prosecuted.

DEPARTMENT OF JUSTICE,
Washington, D. C., August 29, 1950.

Hon. PAT MCCARRAN,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 3452) for the relief of George W. Purdy.

The bill would provide for payment of the sum of $810.50 to George W. Purdy, of Oak Bluffs, Mass., in full settlement of his claims against the United States for adjustment of retirement pay for the period July 1, 1933, to January 2, 1938, as retired employee of the former Lighthouse Service of the Coast Guard.

In compliance with your request, a report was obtained from the Treasury Department concerning this legislation. According to that report, which is enclosed, it appears that Mr. Purdy was a lighthouse keeper who retired on July 1, 1933, with annual retirement pay of $1,035. As a result of Comptroller General's Decision B-70029, dated October 23, 1947, ruling that the value of quarters furnished lighthouse keepers should be considered in computing the amount of their retirement pay, Mr. Purdy's annual retirement pay was increased to $1,215. By letter dated December 30, 1947, Mr. Purdy made a claim for this difference covering the entire period of his retirement. The claim has been settled except for the amount which accrued during the period from July 1, 1933, to December 30, 1937, which portion of the claim was barred by the General Accounting Office in accordance with the act of October 9, 1940 (54 Stat. 1061 (31 U. S. C. 71a)). This statute probibits the settlement of any claim unless received in the General Accounting Office within 10 full years after its accrual. The purpose of the instant bill is to authorize the payment of the amount of the claim so barred.

The Treasury Department states that limitations upon the period of time within which claims may be filed are imposed for the sound reason that, after long periods of time have elapsed, records pertinent to a case are likely to have been lost or destroyed, and witnesses may no longer be available. It states that waiver of the statute of limitations in this case would appear to be unwarranted and would establish an undesirable precedent for other claimants or groups of claimants to seek similar waivers, thus leading to the eventual undermining of the salutary principle of statutory limitations of the period within which claims against the United States may be filed. The report concludes with the statement that for this reason the Treasury Department recommends against the enactment of the bill. Bills of the kind here involved favor one or more of a group of potential claimants similarly situated, without any just basis for discrimination. Also, they strongly tend to destroy the effect of the statutes of limitations and to make it more difficult to avoid piecemeal legislative erosion of such statutes in the future. This claimant presumably did not know that he had a substantive right until he learned of the Comptroller General's decision. This reason for delay, however, is probably equally applicable to the majority of claims of this character that are sought to be asserted too late. If the statute may properly be waived on the equities of the present case there would appear to be no valid justification for opposing similar relief in the hundreds of cases that were filed as a consequence of the decision in *United States* v. *Townsley* (323 U. S. 557) in which the claimants are in precisely the same situation as the proposed beneficiary of the instant bill from the standpoint of their prior knowledge of their substantive rights.

For these reasons, the Department of Justice concurs in the views of the Treasury Department.

The Director of the Bureau of the Budget has advised this office that there would be no objection to the submission of this report.

Yours sincerely,

PEYTON FORD, *Deputy Attorney General.*

DEPARTMENT OF THE TREASURY,
Washington, D. C., July 7, 1950.

Hon. PEYTON FORD,
The Assistant to the Attorney General,
Department of Justice, Washington, D. C.

SIR: Reference is made to your letter of May 10, 1950, in which you request the views of the Treasury Department on S. 3452, for the relief of George W. Purdy.

Mr. Purdy was a lighthouse keeper who retired on July 1, 1933, with annual retirement pay of $1,035. As the result of Comptroller General's Decision B–70029 dated October 23, 1947, ruling that the value of quarters furnished lighthouse keepers should be considered in computing the amount of their retirement pay, Mr. Purdy's annual retirement pay was increased to $1,215. By letter dated December 30, 1947, Mr. Purdy made a claim for this difference covering the entire period of his retirement. The claim has been settled except for the amount which accrued during the period from July 1, 1933, to December 30, 1937, which portion of the claim was barred by the General Accounting Office in accordance with the act of October 9, 1940, 54 Stat. 1061 (31 U. S. C. 71a). This statute prohibits the settlement of any claim unless received in the General Accounting Office within 10 full years after its accrual. The purpose of S. 3452 is to authorize the payment of the amount of the claim so barred.

Limitations upon the period of time within which claims may be filed are imposed for the sound reason that after long periods of time have elapsed records pertinent to a case are likely to have been lost or destroyed, and witnesses may no longer be available. Waiver of the statute of limitations in Mr. Purdy's case would appear to be unwarranted and would establish an undesirable precedent for other claimants or groups of claimants to seek similar waivers, thus leading to the eventual undermining of the salutory principle of statutory limitation of the period within which claims against the United States may be filed. For this reason the Treasury Department recommends against the enactment of S. 3452.

Very truly yours,

E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

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